

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 11

HOUSE BILL 2155

AN ACT

AMENDING SECTION 42-2253, ARIZONA REVISED STATUTES; REPEALING SECTION 42-3105, ARIZONA REVISED STATUTES; REPEALING SECTION 42-3251, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 193, SECTION 490; AMENDING SECTIONS 42-5039 AND 42-5062, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5062.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5070, 42-5073, 42-5074 AND 42-5159, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5160, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 326, SECTION 20; AMENDING SECTIONS 42-6007, 42-11111, 42-11129 AND 42-18127, ARIZONA REVISED STATUTES; REPEALING SECTION 43-205, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1023, 43-1042 AND 43-1181, ARIZONA REVISED STATUTES; AMENDING LAWS 2004, CHAPTER 289, SECTION 7; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-2253, Arizona Revised Statutes, is amended to
3 read:

4 42-2253. Authorized subpoenas

5 A. Notwithstanding section 42-2252, the department may issue a
6 subpoena duces tecum for computer software if:

7 1. The department is unable to otherwise reasonably ascertain the
8 correctness of any item on a return from either:

9 (a) The taxpayer's books, papers, records or other data.

10 (b) The computer software executable code and any modifications of the
11 computer software executable code to which the source code relates and any
12 associated data that, when executed, produces the output to ascertain the
13 correctness of the item.

14 2. The department identifies with reasonable specificity the portion,
15 item or component of the source code needed to verify the correctness of the
16 return item.

17 3. The department determines that the need for the portion, item or
18 component of the source code with respect to the return item outweighs the
19 risk of unauthorized disclosure of trade secrets.

20 B. The department is considered to have met the requirements of
21 subsection A, paragraphs 1 and 2 of this section if:

22 1. The department determines that it is not feasible to determine the
23 correctness of a return item without access to the computer software
24 executable code and associated data described in SUBSECTION A, paragraph 1,
25 subdivision (b) of this ~~subsection~~ SECTION.

26 2. The department makes a formal request to the taxpayer for the code
27 and data and to the owner of the computer software source code for the
28 executable code.

29 3. The code and data are not provided to the department within one
30 hundred eighty days after the request.

31 Sec. 2. Repeal

32 A. Section 42-3105, Arizona Revised Statutes, is repealed.

33 B. Section 42-3251, Arizona Revised Statutes, as amended by Laws 2000,
34 chapter 193, section 490, is repealed.

35 Sec. 3. Section 42-5039, Arizona Revised Statutes, is amended to read:

36 42-5039. Prospective application of new law or interpretation
37 or application of law; definition

38 A. Unless expressly authorized by law, the department shall not apply
39 any newly enacted legislation retroactively or in a manner that will penalize
40 a taxpayer for complying with prior law.

41 B. If the department adopts a new interpretation or application of any
42 provision of this chapter or determines that any of those provisions applies
43 to a new or additional category or type of business and the change in
44 interpretation or application is not due to a change in the law:

1 1. The change in interpretation or application applies prospectively
2 only unless it is favorable to taxpayers.

3 2. The department shall not assess any tax, penalty or interest
4 retroactively based on the change in interpretation or application.

5 ~~B.~~ C. Tax liabilities, penalties and interest paid before a new
6 interpretation or application of this chapter by the department shall not be
7 refunded unless the taxpayer requesting the refund provides evidence
8 satisfactory to the department of revenue that all such amounts will be
9 refunded to the person who paid an added charge to cover the tax.

10 ~~C.~~ D. For THE purposes of ~~subsection B~~ THIS SECTION, "new
11 interpretation or application" includes policies and procedures adopted by
12 administrative rule, tax ruling, tax procedure or instructions to a tax
13 return.

14 Sec. 4. Section 42-5062, Arizona Revised Statutes, is amended to read:

15 42-5062. Transporting classification

16 A. The transporting classification is comprised of the business of
17 transporting for hire persons, freight or property by motor vehicle,
18 railroads or aircraft from one point to another point in this state. The
19 transporting classification does not include:

20 1. Transporting for hire persons, freight or property by motor
21 carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by
22 light motor vehicles subject to a fee under title 28, chapter 15, article 4.

23 2. The business of transporting for hire persons traveling in air
24 commerce by aircraft if taxation of the business is preempted by federal law.

25 3. Ambulances or ambulance services provided under title 48 or
26 certified pursuant to title 36, chapter 21.1 or provided by a city or town in
27 a county with a population of less than one hundred fifty thousand persons as
28 determined in the most recent United States decennial census.

29 4. Public transportation program services for the dial-a-ride programs
30 and special needs transportation services.

31 5. Transporting freight or property for hire by a railroad operating
32 exclusively in this state if the transportation comprises a portion of a
33 single shipment of freight or property, involving more than one railroad,
34 either from a point in this state to a point outside this state or from a
35 point outside this state to a point in this state. For THE purposes of this
36 paragraph, "a single shipment" means the transportation that begins at the
37 point at which one of the railroads first takes possession of the freight or
38 property and continues until the point at which one of the railroads
39 relinquishes possession of the freight or property to a party other than one
40 of the railroads.

41 B. The tax base for the transporting classification is the gross
42 proceeds of sales or gross income derived from the business, except that the
43 following shall be deducted from the tax base:

44 1. The gross proceeds of sales or gross income derived from
45 transporting for hire persons, freight or property by a railroad pursuant to

1 a contract with another railroad that is also considered to be engaged in the
2 businesses of transporting persons, freight or property for hire if the other
3 railroad is liable for the tax on gross proceeds of sales or gross income
4 attributable to the transportation.

5 2. The gross proceeds of sales or gross income derived from business
6 activity that is properly included in any other business classification under
7 this article and that is taxable to the person engaged in that
8 classification, but the gross proceeds of sales or gross income to be
9 deducted shall not exceed the consideration paid to the person conducting the
10 activity.

11 3. The gross proceeds of sales or gross income derived from a business
12 activity that is arranged by the person who is subject to tax under this
13 section and that is not taxable to the person conducting the activity due to
14 an exclusion, exemption or deduction under this section or section 42-5073,
15 but the gross proceeds of sales or gross income to be deducted shall not
16 exceed the consideration paid to the person conducting the activity.

17 4. The gross proceeds of sales or gross income derived from business
18 activity that is arranged by a person who is subject to tax under this
19 section and that is taxable to another person under this section who conducts
20 the activity, but the gross proceeds of sales or gross income to be deducted
21 shall not exceed the consideration paid to the person conducting the
22 activity.

23 5. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM
24 TRANSPORTING FERTILIZER BY A RAILROAD FROM A POINT IN THIS STATE TO ANOTHER
25 POINT IN THIS STATE.

26 Sec. 5. Repeal

27 Section 42-5062.01, Arizona Revised Statutes, is repealed.

28 Sec. 6. Section 42-5070, Arizona Revised Statutes, is amended to read:
29 42-5070. Transient lodging classification

30 A. The transient lodging classification is comprised of the business
31 of operating, for occupancy by transients, a hotel or motel, including an
32 inn, tourist home or house, dude ranch, resort, campground, studio or
33 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
34 public or private club, mobile home or house trailer at a fixed location or
35 other similar structure, and also including a space, lot or slab which is
36 occupied or intended or designed for occupancy by transients in a mobile home
37 or house trailer furnished by them for such occupancy. For THE purposes of
38 this subsection, "transient" means any person who either at the person's own
39 expense or at the expense of another obtains lodging space or the use of
40 lodging space on a daily or weekly basis, or on any other basis for less than
41 thirty consecutive days.

42 B. The transient lodging classification does not include:

43 1. Operating a convalescent home or facility, home for the aged,
44 hospital, jail, military installation or fraternity or sorority house or
45 operating any structure exclusively by an association, institution,

1 governmental agency or corporation for religious, charitable or educational
2 purposes, if no part of the net earnings of the association, corporation or
3 other entity inures to the benefit of any private shareholder or individual.

4 2. A lease or rental of a mobile home or house trailer at a fixed
5 location or any other similar structure, and also including a space, lot or
6 slab which is occupied or intended or designed for occupancy by transients in
7 a mobile home or house trailer furnished by them for such occupancy for
8 thirty or more consecutive days.

9 3. Leasing or renting four or fewer rooms of an owner-occupied
10 residential home, together with furnishing no more than a breakfast meal, to
11 transient lodgers at no more than a fifty per cent average annual occupancy
12 rate.

13 C. The tax base for the transient lodging classification is the gross
14 proceeds of sales or gross income derived from the business, except that the
15 tax base does not include gross proceeds of sales or gross income derived
16 from business activity that is properly included in another business
17 classification under this article and that is taxable to the person engaged
18 in that business classification, but the gross proceeds of sales or gross
19 income to be deducted shall not exceed the consideration paid to the person
20 conducting the activity.

21 D. The department shall separately account for revenues collected
22 under the transient lodging classification for purposes of section 42-5029,
23 subsection D, paragraph 4, subdivision (f) (b).

24 Sec. 7. Section 42-5073, Arizona Revised Statutes, is amended to read:
25 42-5073. Amusement classification

26 A. The amusement classification is comprised of the business of
27 operating or conducting theaters, movies, operas, shows of any type or
28 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
29 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
30 alleys, public dances, dance halls, boxing and wrestling matches, skating
31 rinks, tennis courts, except as provided in subsection B of this section,
32 video games, pinball machines, sports events or any other business charging
33 admission or user fees for exhibition, amusement or entertainment, including
34 the operation or sponsorship of events by a tourism and sports authority
35 under title 5, chapter 8. For purposes of this section, admission or user
36 fees include, but are not limited to, any revenues derived from any form of
37 contractual agreement for rights to or use of premium or special seating
38 facilities or arrangements. The amusement classification does not include:

39 1. Activities or projects of bona fide religious or educational
40 institutions.

41 2. Private or group instructional activities. For THE purposes of
42 this paragraph, "private or group instructional activities" includes, but is
43 not limited to, performing arts, martial arts, gymnastics and aerobic
44 instruction.

1 3. The operation or sponsorship of events by the Arizona exposition
2 and state fair board or county fair commissions.

3 4. A musical, dramatic or dance group or a botanical garden, museum or
4 zoo that is qualified as a nonprofit charitable organization under section
5 501(c)(3) of the United States internal revenue code and if no part of its
6 net income inures to the benefit of any private shareholder or individual.

7 5. Exhibition events in this state sponsored, conducted or operated by
8 a nonprofit organization that is exempt from taxation under section
9 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
10 organization is associated with major league baseball teams or a national
11 touring professional golfing association and no part of the organization's
12 net earnings inures to the benefit of any private shareholder or individual.

13 6. Operating or sponsoring rodeos that feature primarily farm and
14 ranch animals in this state and that are sponsored, conducted or operated by
15 a nonprofit organization that is exempt from taxation under section
16 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
17 revenue code and no part of the organization's net earnings inures to the
18 benefit of any private shareholder or individual.

19 7. Sales of admissions to intercollegiate football contests if the
20 contests are both:

21 (a) Operated by a nonprofit organization that is exempt from taxation
22 under section 501(c)(3) of the internal revenue code and no part of the
23 organization's net earnings inures to the benefit of any private shareholder
24 or individual.

25 (b) Not held in a multipurpose facility that is owned or operated by
26 the tourism and sports authority pursuant to title 5, chapter 8.

27 8. Activities and events of, or fees and assessments received by, a
28 homeowners organization from persons who are members of the organization or
29 accompanied guests of members. For THE purposes of this paragraph,
30 "homeowners organization" means a mandatory membership organization comprised
31 of owners of residential property within a specified residential real estate
32 subdivision development or similar area and established to own property for
33 the benefit of its members where both of the following apply:

34 (a) No part of the organization's net earnings inures to the benefit
35 of any private shareholder or individual.

36 (b) The primary purpose of the organization is to provide for the
37 acquisition, construction, management, maintenance or care of organization
38 property.

39 9. Activities and events of, or fees received by, a nonprofit
40 organization that is exempt from taxation under section 501(c)(6) of the
41 internal revenue code if the organization produces, organizes or promotes
42 cultural or civic related festivals or events and no part of the
43 organization's net earnings inures to the benefit of any private shareholder
44 or individual.

1 B. The tax base for the amusement classification is the gross proceeds
2 of sales or gross income derived from the business, except that the following
3 shall be deducted from the tax base:

4 1. The gross proceeds of sales or gross income derived from
5 memberships, including initiation fees, which provide for the right to use a
6 health or fitness establishment or a private recreational establishment, or
7 any portion of an establishment, including tennis and other racquet courts at
8 that establishment, for participatory purposes for twenty-eight days or more
9 and fees charged for use of the health or fitness establishment or private
10 recreational establishment by bona fide accompanied guests of members, except
11 that this paragraph does not include additional fees, other than initiation
12 fees, charged by a health or fitness establishment or a private recreational
13 establishment for purposes other than memberships which provide for the right
14 to use a health or fitness establishment or private recreational
15 establishment, or any portion of an establishment, for participatory purposes
16 for twenty-eight days or more and accompanied guest use fees.

17 2. Amounts that are exempt under section 5-111, subsection H.

18 3. The gross proceeds of sales or gross income derived from membership
19 fees, including initiation fees, that provide for the right to use a
20 transient lodging recreational establishment, including golf courses and
21 tennis and other racquet courts at that establishment, for participatory
22 purposes for twenty-eight days or more, except that this paragraph does not
23 include additional fees, other than initiation fees, that are charged by a
24 transient lodging recreational establishment for purposes other than
25 memberships and that provide for the right to use a transient lodging
26 recreational establishment or any portion of the establishment for
27 participatory purposes for twenty-eight days or more.

28 4. The gross proceeds of sales or gross income derived from sales to
29 persons engaged in the business of transient lodging classified under section
30 42-5070, if all of the following apply:

31 (a) The persons who are engaged in the transient lodging business sell
32 the amusement to another person for consideration.

33 (b) The consideration received by the transient lodging business is
34 equal to or greater than the amount to be deducted under this subsection.

35 (c) The transient lodging business has provided an exemption
36 certificate to the person engaging in business under this section.

37 5. The gross proceeds of sales or gross income derived from:

38 (a) Business activity that is properly included in any other business
39 classification under this article and that is taxable to the person engaged
40 in that classification, but the gross proceeds of sales or gross income to be
41 deducted shall not exceed the consideration paid to the person conducting the
42 activity.

43 (b) Business activity that is arranged by the person who is subject to
44 tax under this section and that is not taxable to the person conducting the
45 activity due to an exclusion, exemption or deduction under this section or

1 section 42-5062, but the gross proceeds of sales or gross income to be
2 deducted shall not exceed the consideration paid to the person conducting the
3 activity.

4 (c) Business activity that is arranged by a person who is subject to
5 tax under this section and that is taxable to another person under this
6 section who conducts the activity, but the gross proceeds of sales or gross
7 income to be deducted shall not exceed the consideration paid to the person
8 conducting the activity.

9 C. For THE purposes of subsection B of this section:

10 1. "Health or fitness establishment" means a facility whose primary
11 purpose is to provide facilities, equipment, instruction or education to
12 promote the health and fitness of its members and at least eighty per cent of
13 the monthly gross revenue of the facility is received through accounts of
14 memberships and accompanied guest use fees which provide for the right to use
15 the facility, or any portion of the facility, under the terms of the
16 membership agreement for participatory purposes for twenty-eight days or
17 more.

18 2. "Private recreational establishment" means a facility whose primary
19 purpose is to provide recreational facilities, such as tennis, golf and
20 swimming, for its members and where at least eighty per cent of the monthly
21 gross revenue of the facility is received through accounts of memberships and
22 accompanied guest use fees which provide for the right to use the facility,
23 or any portion of the facility, for participatory purposes for twenty-eight
24 days or more.

25 3. "Transient lodging recreational establishment" means a facility
26 whose primary purpose is to provide facilities for transient lodging, that is
27 subject to taxation under this chapter and that also provides recreational
28 facilities, such as tennis, golf and swimming, for members for a period of
29 twenty-eight days or more.

30 D. Until December 31, 1988, the revenues from hayrides and other
31 animal-drawn amusement rides, from horseback riding and riding instruction
32 and from recreational tours using motor vehicles designed to operate on and
33 off public highways are exempt from the tax imposed by this section.
34 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
35 and other animal-drawn amusement rides, from horseback riding and from
36 recreational tours using motor vehicles designed to operate on and off public
37 highways are subject to taxation under this section. Tax liabilities,
38 penalties and interest paid for taxable periods before January 1, 1989 shall
39 not be refunded unless the taxpayer requesting the refund provides proof
40 satisfactory to the department that the taxes will be returned to the
41 customer.

42 E. If a person is engaged in the business of offering both exhibition,
43 amusement or entertainment and private or group instructional activities, the
44 person's books shall be kept to show separately the gross income from
45 exhibition, amusement or entertainment and the gross income from

1 instructional activities. If the books do not provide this separate
2 accounting, the tax is imposed on the person's total gross income from the
3 business.

4 F. The department shall separately account for revenues collected
5 under the amusement classification for purposes of section 42-5029,
6 subsection D, paragraph 4, subdivision (f) (b).

7 G. For purposes of section 42-5032.01, the department shall separately
8 account for revenues collected under the amusement classification from sales
9 of admissions to:

10 1. Events that are held in a multipurpose facility that is owned or
11 operated by the tourism and sports authority pursuant to title 5, chapter 8,
12 including intercollegiate football contests that are operated by a nonprofit
13 organization that is exempt from taxation under section 501(c)(3) of the
14 internal revenue code.

15 2. Professional football contests that are held in a stadium located
16 on the campus of an institution under the jurisdiction of the Arizona board
17 of regents.

18 Sec. 8. Section 42-5074, Arizona Revised Statutes, is amended to read:
19 42-5074. Restaurant classification

20 A. The restaurant classification is comprised of the business of
21 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
22 soda fountains, catering services or similar establishments where articles of
23 food or drink are sold for consumption on or off the premises.

24 B. The tax base for the restaurant classification is the gross
25 proceeds of sales or gross income derived from the business. The gross
26 proceeds of sales or gross income derived from the following shall be
27 deducted from the tax base:

28 1. Sales to a person engaged in business classified under the
29 restaurant classification if the items sold are to be resold in the regular
30 course of the business.

31 2. Sales by a congressionally chartered veterans organization of food
32 or drink prepared for consumption on the premises leased, owned or maintained
33 by the organization.

34 3. Sales by churches, fraternal benefit societies and other nonprofit
35 organizations, as these organizations are defined in the federal internal
36 revenue code (26 United States Code section 501), which do not regularly
37 engage or continue in the restaurant business for the purpose of
38 fund-raising.

39 4. Sales by a nonprofit organization that is exempt from taxation
40 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code
41 if the organization is associated with a major league baseball team or a
42 national touring professional golfing association and no part of the
43 organization's net earnings inures to the benefit of any private shareholder
44 or individual.

1 5. Sales at a rodeo featuring primarily farm and ranch animals in this
2 state by a nonprofit organization that is exempt from taxation under section
3 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
4 revenue code and no part of the organization's net earnings inures to the
5 benefit of any private shareholder or individual.

6 6. Sales by any nonprofit organization organized and operated
7 exclusively for charitable purposes and recognized by the United States
8 internal revenue service under section 501(c)(3) of the internal revenue
9 code.

10 7. Sales to qualifying hospitals as defined in section 42-5001.

11 8. Sales to a qualifying health care organization as defined in
12 section 42-5001 if the tangible personal property is used by the organization
13 solely to provide health and medical related educational and charitable
14 services.

15 9. Sales of food, drink and condiment for consumption within the
16 premises of any prison, jail or other institution under the jurisdiction of
17 the state department of corrections, the department of public safety, the
18 department of juvenile corrections or a county sheriff.

19 C. The tax imposed on the restaurant classification pursuant to this
20 section does not apply to the gross proceeds of sales or gross income from
21 tangible personal property sold to a commercial airline consisting of food,
22 beverages and condiments and accessories used for serving the food and
23 beverages, if those items are to be provided without additional charge to
24 passengers for consumption in flight. For THE purposes of this subsection,
25 "commercial airline" means a person holding a federal certificate of public
26 convenience and necessity or foreign air carrier permit for air
27 transportation to transport persons, property or United States mail in
28 intrastate, interstate or foreign commerce.

29 D. The department shall separately account for revenues collected
30 under the restaurant classification for purposes of section 42-5029,
31 subsection D, paragraph 4, subdivision (f) (b).

32 E. For purposes of section 42-5032.01, the department shall separately
33 account for revenues collected under the restaurant classification from
34 businesses operating restaurants, dining rooms, lunchrooms, lunch stands,
35 soda fountains, catering services or similar establishments:

36 1. On the premises of a multipurpose facility that is owned or
37 operated by the tourism and sports authority pursuant to title 5, chapter 8
38 for consumption on or off the premises.

39 2. At professional football contests that are held in a stadium
40 located on the campus of an institution under the jurisdiction of the Arizona
41 board of regents.

1 Sec. 9. Section 42-5159, Arizona Revised Statutes, is amended to read:

2 42-5159. Exemptions

3 A. The tax levied by this article does not apply to the storage, use
4 or consumption in this state of the following described tangible personal
5 property:

6 1. Tangible personal property sold in this state, the gross receipts
7 from the sale of which are included in the measure of the tax imposed by
8 articles 1 and 2 of this chapter.

9 2. Tangible personal property the sale or use of which has already
10 been subjected to an excise tax at a rate equal to or exceeding the tax
11 imposed by this article under the laws of another state of the United
12 States. If the excise tax imposed by the other state is at a rate less than
13 the tax imposed by this article, the tax imposed by this article is reduced
14 by the amount of the tax already imposed by the other state.

15 3. Tangible personal property, the storage, use or consumption of
16 which the constitution or laws of the United States prohibit this state from
17 taxing or to the extent that the rate or imposition of tax is
18 unconstitutional under the laws of the United States.

19 4. Tangible personal property which directly enters into and becomes
20 an ingredient or component part of any manufactured, fabricated or processed
21 article, substance or commodity for sale in the regular course of business.

22 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
23 which in this state is subject to the tax imposed under ~~the provisions of~~
24 title 28, chapter 16, article 1, use fuel which is sold to or used by a
25 person holding a valid single trip use fuel tax permit issued under section
26 28-5739, aviation fuel, the sales, distribution or use of which in this state
27 is subject to the tax imposed under section 28-8344, and jet fuel, the sales,
28 distribution or use of which in this state is subject to the tax imposed
29 under article 8 of this chapter.

30 6. Tangible personal property brought into this state by an individual
31 who was a nonresident at the time the property was purchased for storage, use
32 or consumption by the individual if the first actual use or consumption of
33 the property was outside this state, unless the property is used in
34 conducting a business in this state.

35 7. Purchases of implants used as growth promotants and injectable
36 medicines, not already exempt under paragraph 16 of this subsection, for
37 livestock and poultry owned by, or in possession of, persons who are engaged
38 in producing livestock, poultry, or livestock or poultry products, or who are
39 engaged in feeding livestock or poultry commercially. For THE purposes of
40 this paragraph, "poultry" includes ratites.

41 8. Livestock, poultry, supplies, feed, salts, vitamins and other
42 additives for use or consumption in the businesses of farming, ranching and
43 feeding livestock or poultry, not including fertilizers, herbicides and
44 insecticides. For THE purposes of this paragraph, "poultry" includes
45 ratites.

1 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
2 material for use in commercially producing agricultural, horticultural,
3 viticultural or floricultural crops in this state.

4 10. Tangible personal property not exceeding two hundred dollars in any
5 one month purchased by an individual at retail outside the continental limits
6 of the United States for the individual's own personal use and enjoyment.

7 11. Advertising supplements which are intended for sale with newspapers
8 published in this state and which have already been subjected to an excise
9 tax under the laws of another state in the United States which equals or
10 exceeds the tax imposed by this article.

11 12. Materials that are purchased by or for publicly funded libraries
12 including school district libraries, charter school libraries, community
13 college libraries, state university libraries or federal, state, county or
14 municipal libraries for use by the public as follows:

15 (a) Printed or photographic materials, beginning August 7, 1985.

16 (b) Electronic or digital media materials, beginning July 17, 1994.

17 13. Tangible personal property purchased by:

18 (a) A hospital organized and operated exclusively for charitable
19 purposes, no part of the net earnings of which inures to the benefit of any
20 private shareholder or individual.

21 (b) A hospital operated by this state or a political subdivision of
22 this state.

23 (c) A licensed nursing care institution or a licensed residential care
24 institution or a residential care facility operated in conjunction with a
25 licensed nursing care institution or a licensed kidney dialysis center, which
26 provides medical services, nursing services or health related services and is
27 not used or held for profit.

28 (d) A qualifying health care organization, as defined in section
29 42-5001, if the tangible personal property is used by the organization solely
30 to provide health and medical related educational and charitable services.

31 (e) A qualifying health care organization as defined in section
32 42-5001 if the organization is dedicated to providing educational,
33 therapeutic, rehabilitative and family medical education training for blind,
34 visually impaired and multihandicapped children from the time of birth to age
35 twenty-one.

36 (f) A nonprofit charitable organization that has qualified under
37 section 501(c)(3) of the United States internal revenue code and that engages
38 in and uses such property exclusively IN PROGRAMS for MENTALLY OR PHYSICALLY
39 HANDICAPPED PERSONS IF THE PROGRAMS ARE EXCLUSIVELY FOR training, job
40 placement, or rehabilitation programs or testing for mentally or physically
41 handicapped persons.

42 (g) A person that is subject to tax under article 1 of this chapter by
43 reason of being engaged in business classified under the prime contracting
44 classification under section 42-5075, or a subcontractor working under the

1 control of a prime contractor, if the tangible personal property is any of
2 the following:

3 (i) Incorporated or fabricated by the contractor into a structure,
4 project, development or improvement in fulfillment of a contract.

5 (ii) Used in environmental response or remediation activities under
6 section 42-5075, subsection B, paragraph 6.

7 (iii) Incorporated or fabricated by the person into any lake facility
8 development in a commercial enhancement reuse district under conditions
9 prescribed for the deduction allowed by section 42-5075, subsection B,
10 paragraph 8.

11 (h) A nonprofit charitable organization that has qualified under
12 section 501(c)(3) of the internal revenue code if the property is purchased
13 from the parent or an affiliate organization that is located outside this
14 state.

15 (i) A qualifying community health center as defined in section
16 42-5001.

17 (j) A nonprofit charitable organization that has qualified under
18 section 501(c)(3) of the internal revenue code and that regularly serves
19 meals to the needy and indigent on a continuing basis at no cost.

20 (k) A person engaged in business under the transient lodging
21 classification if the property is a personal hygiene item or articles used by
22 human beings for food, drink or condiment, except alcoholic beverages, which
23 are furnished without additional charge to and intended to be consumed by the
24 transient during the transient's occupancy.

25 (l) For taxable periods beginning from and after June 30, 2001, a
26 nonprofit charitable organization that has qualified under section 501(c)(3)
27 of the internal revenue code and that provides residential apartment housing
28 for low income persons over sixty-two years of age in a facility that
29 qualifies for a federal housing subsidy, if the tangible personal property is
30 used by the organization solely to provide residential apartment housing for
31 low income persons over sixty-two years of age in a facility that qualifies
32 for a federal housing subsidy.

33 14. Commodities, as defined by title 7 United States Code section 2,
34 that are consigned for resale in a warehouse in this state in or from which
35 the commodity is deliverable on a contract for future delivery subject to the
36 rules of a commodity market regulated by the United States commodity futures
37 trading commission.

38 15. Tangible personal property sold by:

39 (a) Any nonprofit organization organized and operated exclusively for
40 charitable purposes and recognized by the United States internal revenue
41 service under section 501(c)(3) of the internal revenue code.

42 (b) A nonprofit organization that is exempt from taxation under
43 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
44 organization is associated with a major league baseball team or a national

1 touring professional golfing association and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.

3 (c) A nonprofit organization that is exempt from taxation under
4 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
5 internal revenue code if the organization sponsors or operates a rodeo
6 featuring primarily farm and ranch animals and no part of the organization's
7 net earnings inures to the benefit of any private shareholder or individual.

8 16. Drugs and medical oxygen, including delivery hose, mask or tent,
9 regulator and tank, on the prescription of a member of the medical, dental or
10 veterinarian profession who is licensed by law to administer such substances.

11 17. Prosthetic appliances, as defined in section 23-501, prescribed or
12 recommended by a person who is licensed, registered or otherwise
13 professionally credentialed as a physician, dentist, podiatrist,
14 chiropractor, naturopath, homeopath, nurse or optometrist.

15 18. Prescription eyeglasses and contact lenses.

16 19. Insulin, insulin syringes and glucose test strips.

17 20. Hearing aids as defined in section 36-1901.

18 21. Durable medical equipment which has a centers for medicare and
19 medicaid services common procedure code, is designated reimbursable by
20 medicare, is prescribed by a person who is licensed under title 32, chapter
21 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
22 used to serve a medical purpose, is generally not useful to a person in the
23 absence of illness or injury and is appropriate for use in the home.

24 22. Food, as provided in and subject to the conditions of article 3 of
25 this chapter and section 42-5074.

26 23. Items purchased with United States department of agriculture food
27 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
28 958) or food instruments issued under section 17 of the child nutrition act
29 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
30 section 1786).

31 24. Food and drink provided without monetary charge by a taxpayer which
32 is subject to section 42-5074 to its employees for their own consumption on
33 the premises during the employees' hours of employment.

34 25. Tangible personal property that is used or consumed in a business
35 subject to section 42-5074 for human food, drink or condiment, whether
36 simple, mixed or compounded.

37 26. Food, drink or condiment and accessory tangible personal property
38 if they are to be prepared and served to persons for consumption on the
39 premises of a public school in a school district during school hours.

40 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
41 article 1.

42 28. Textbooks, sold by a bookstore, that are required by any state
43 university or community college.

44 29. Magazines, other periodicals or other publications produced by this
45 state to encourage tourist travel.

1 30. Paper machine clothing, such as forming fabrics and dryer felts,
2 purchased by a paper manufacturer and directly used or consumed in paper
3 manufacturing.

4 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
5 purchased by a qualified environmental technology manufacturer, producer or
6 processor as defined in section 41-1514.02 and directly used or consumed in
7 the generation or provision of on-site power or energy solely for
8 environmental technology manufacturing, producing or processing or
9 environmental protection. This paragraph shall apply for fifteen full
10 consecutive calendar or fiscal years from the date the first paper
11 manufacturing machine is placed in service. In the case of an environmental
12 technology manufacturer, producer or processor who does not manufacture
13 paper, the time period shall begin with the date the first manufacturing,
14 processing or production equipment is placed in service.

15 32. Motor vehicles that are removed from inventory by a motor vehicle
16 dealer as defined in section 28-4301 and that are provided to:

17 (a) Charitable or educational institutions that are exempt from
18 taxation under section 501(c)(3) of the internal revenue code.

19 (b) Public educational institutions.

20 (c) State universities or affiliated organizations of a state
21 university if no part of the organization's net earnings inures to the
22 benefit of any private shareholder or individual.

23 33. Natural gas or liquefied petroleum gas used to propel a motor
24 vehicle.

25 34. Machinery, equipment, technology or related supplies that are only
26 useful to assist a person who is physically disabled as defined in section
27 46-191, has a developmental disability as defined in section 36-551 or has a
28 head injury as defined in section 41-3201 to be more independent and
29 functional.

30 35. Liquid, solid or gaseous chemicals used in manufacturing,
31 processing, fabricating, mining, refining, metallurgical operations, research
32 and development and, beginning on January 1, 1999, printing, if using or
33 consuming the chemicals, alone or as part of an integrated system of
34 chemicals, involves direct contact with the materials from which the product
35 is produced for the purpose of causing or permitting a chemical or physical
36 change to occur in the materials as part of the production process. This
37 paragraph does not include chemicals that are used or consumed in activities
38 such as packaging, storage or transportation but does not affect any
39 exemption for such chemicals that is otherwise provided by this section. For
40 the purposes of this paragraph, "printing" means a commercial printing
41 operation and includes job printing, engraving, embossing, copying and
42 bookbinding.

43 36. Food, drink and condiment purchased for consumption within the
44 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.

3 37. A motor vehicle and any repair and replacement parts and tangible
4 personal property becoming a part of such motor vehicle sold to a motor
5 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
6 and who is engaged in the business of leasing or renting such property.

7 38. Tangible personal property which is or directly enters into and
8 becomes an ingredient or component part of cards used as prescription plan
9 identification cards.

10 39. Overhead materials or other tangible personal property that is used
11 in performing a contract between the United States government and a
12 manufacturer, modifier, assembler or repairer, including property used in
13 performing a subcontract with a government contractor who is a manufacturer,
14 modifier, assembler or repairer, to which title passes to the government
15 under the terms of the contract or subcontract. For THE purposes of this
16 paragraph:

17 (a) "Overhead materials" means tangible personal property, the gross
18 proceeds of sales or gross income derived from which would otherwise be
19 included in the retail classification, and which are used or consumed in the
20 performance of a contract, the cost of which is charged to an overhead
21 expense account and allocated to various contracts based upon generally
22 accepted accounting principles and consistent with government contract
23 accounting standards.

24 (b) "Subcontract" means an agreement between a contractor and any
25 person who is not an employee of the contractor for furnishing of supplies or
26 services that, in whole or in part, are necessary to the performance of one
27 or more government contracts, or under which any portion of the contractor's
28 obligation under one or more government contracts is performed, undertaken or
29 assumed, and that includes provisions causing title to overhead materials or
30 other tangible personal property used in the performance of the subcontract
31 to pass to the government or that includes provisions incorporating such
32 title passing clauses in a government contract into the subcontract.

33 40. Through December 31, 1994, tangible personal property sold pursuant
34 to a personal property liquidation transaction, as defined in section
35 42-5061. From and after December 31, 1994, tangible personal property sold
36 pursuant to a personal property liquidation transaction, as defined in
37 section 42-5061, if the gross proceeds of the sales were included in the
38 measure of the tax imposed by article 1 of this chapter or if the personal
39 property liquidation was a casual activity or transaction.

40 41. Wireless telecommunications equipment that is held for sale or
41 transfer to a customer as an inducement to enter into or continue a contract
42 for telecommunications services that are taxable under section 42-5064.

43 42. Alternative fuel, as defined in section 1-215, purchased by a used
44 oil fuel burner who has received a permit to burn used oil or used oil fuel
45 under section 49-426 or 49-480.

1 43. Tangible personal property purchased by a commercial airline and
2 consisting of food, beverages and condiments and accessories used for serving
3 the food and beverages, if those items are to be provided without additional
4 charge to passengers for consumption in flight. For THE purposes of this
5 paragraph, "commercial airline" means a person holding a federal certificate
6 of public convenience and necessity or foreign air carrier permit for air
7 transportation to transport persons, property or United States mail in
8 intrastate, interstate or foreign commerce.

9 44. Alternative fuel vehicles, ~~as defined in section 43-1086,~~ if the
10 vehicle was manufactured as a diesel fuel vehicle and converted to operate on
11 alternative fuel and equipment that is installed in a conventional diesel
12 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,
13 as defined in section 1-215.

14 45. Gas diverted from a pipeline, by a person engaged in the business
15 of operating a natural or artificial gas pipeline, and used or consumed for
16 the sole purpose of fueling compressor equipment that pressurizes the
17 pipeline.

18 46. Tangible personal property that is excluded, exempt or deductible
19 from transaction privilege tax pursuant to section 42-5063.

20 47. Tangible personal property purchased to be incorporated or
21 installed as part of environmental response or remediation activities under
22 section 42-5075, subsection B, paragraph 6.

23 48. Tangible personal property sold by a nonprofit organization that
24 is exempt from taxation under section 501(c)(6) of the internal revenue code
25 if the organization produces, organizes or promotes cultural or civic related
26 festivals or events and no part of the organization's net earnings inures to
27 the benefit of any private shareholder or individual.

28 B. In addition to the exemptions allowed by subsection A of this
29 section, the following categories of tangible personal property are also
30 exempt:

31 1. Machinery, or equipment, used directly in manufacturing,
32 processing, fabricating, job printing, refining or metallurgical
33 operations. The terms "manufacturing", "processing", "fabricating", "job
34 printing", "refining" and "metallurgical" as used in this paragraph refer to
35 and include those operations commonly understood within their ordinary
36 meaning. "Metallurgical operations" includes leaching, milling,
37 precipitating, smelting and refining.

38 2. Machinery, or equipment, used directly in the process of extracting
39 ores or minerals from the earth for commercial purposes, including equipment
40 required to prepare the materials for extraction and handling, loading or
41 transporting such extracted material to the surface. "Mining" includes
42 underground, surface and open pit operations for extracting ores and
43 minerals.

44 3. Tangible personal property sold to persons engaged in business
45 classified under the telecommunications classification under section 42-5064

1 and consisting of central office switching equipment, switchboards, private
2 branch exchange equipment, microwave radio equipment and carrier equipment
3 including optical fiber, coaxial cable and other transmission media which are
4 components of carrier systems.

5 4. Machinery, equipment or transmission lines used directly in
6 producing or transmitting electrical power, but not including
7 distribution. Transformers and control equipment used at transmission
8 substation sites constitute equipment used in producing or transmitting
9 electrical power.

10 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
11 to be used as breeding or production stock, including sales of breedings or
12 ownership shares in such animals used for breeding or production.

13 6. Pipes or valves four inches in diameter or larger used to transport
14 oil, natural gas, artificial gas, water or coal slurry, including compressor
15 units, regulators, machinery and equipment, fittings, seals and any other
16 part that is used in operating the pipes or valves.

17 7. Aircraft, navigational and communication instruments and other
18 accessories and related equipment sold to:

19 (a) A person holding a federal certificate of public convenience and
20 necessity, a supplemental air carrier certificate under federal aviation
21 regulations (14 Code of Federal Regulations part 121) or a foreign air
22 carrier permit for air transportation for use as or in conjunction with or
23 becoming a part of aircraft to be used to transport persons, property or
24 United States mail in intrastate, interstate or foreign commerce.

25 (b) Any foreign government for use by such government outside of this
26 state, or sold to persons who are not residents of this state and who will
27 not use such property in this state other than in removing such property from
28 this state.

29 8. Machinery, tools, equipment and related supplies used or consumed
30 directly in repairing, remodeling or maintaining aircraft, aircraft engines
31 or aircraft component parts by or on behalf of a certificated or licensed
32 carrier of persons or property.

33 9. Rolling stock, rails, ties and signal control equipment used
34 directly to transport persons or property.

35 10. Machinery or equipment used directly to drill for oil or gas or
36 used directly in the process of extracting oil or gas from the earth for
37 commercial purposes.

38 11. Buses or other urban mass transit vehicles which are used directly
39 to transport persons or property for hire or pursuant to a governmentally
40 adopted and controlled urban mass transportation program and which are sold
41 to bus companies holding a federal certificate of convenience and necessity
42 or operated by any city, town or other governmental entity or by any person
43 contracting with such governmental entity as part of a governmentally adopted
44 and controlled program to provide urban mass transportation.

45 12. Groundwater measuring devices required under section 45-604.

1 13. New machinery and equipment consisting of tractors, tractor-drawn
2 implements, self-powered implements, machinery and equipment necessary for
3 extracting milk, and machinery and equipment necessary for cooling milk and
4 livestock, and drip irrigation lines not already exempt under paragraph 6 of
5 this subsection and that are used for commercial production of agricultural,
6 horticultural, viticultural and floricultural crops and products in this
7 state. ~~In~~ FOR THE PURPOSES OF this paragraph:

8 (a) "New machinery and equipment" means machinery or equipment which
9 has never been sold at retail except pursuant to leases or rentals which do
10 not total two years or more.

11 (b) "Self-powered implements" includes machinery and equipment that
12 are electric-powered.

13 14. Machinery or equipment used in research and development. ~~In~~ FOR
14 THE PURPOSES OF this paragraph, "research and development" means basic and
15 applied research in the sciences and engineering, and designing, developing
16 or testing prototypes, processes or new products, including research and
17 development of computer software that is embedded in or an integral part of
18 the prototype or new product or that is required for machinery or equipment
19 otherwise exempt under this section to function effectively. Research and
20 development do not include manufacturing quality control, routine consumer
21 product testing, market research, sales promotion, sales service, research in
22 social sciences or psychology, computer software research that is not
23 included in the definition of research and development, or other
24 nontechnological activities or technical services.

25 15. Machinery and equipment that are purchased by or on behalf of the
26 owners of a soundstage complex and primarily used for motion picture,
27 multimedia or interactive video production in the complex. This paragraph
28 applies only if the initial construction of the soundstage complex begins
29 after June 30, 1996 and before January 1, 2002 and the machinery and
30 equipment are purchased before the expiration of five years after the start
31 of initial construction. For THE purposes of this paragraph:

32 (a) "Motion picture, multimedia or interactive video production"
33 includes products for theatrical and television release, educational
34 presentations, electronic retailing, documentaries, music videos, industrial
35 films, CD-ROM, video game production, commercial advertising and television
36 episode production and other genres that are introduced through developing
37 technology.

38 (b) "Soundstage complex" means a facility of multiple stages including
39 production offices, construction shops and related areas, prop and costume
40 shops, storage areas, parking for production vehicles and areas that are
41 leased to businesses that complement the production needs and orientation of
42 the overall facility.

43 16. Tangible personal property that is used by either of the following
44 to receive, store, convert, produce, generate, decode, encode, control or
45 transmit telecommunications information:

1 (a) Any direct broadcast satellite television or data transmission
2 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
3 100.

4 (b) Any satellite television or data transmission facility, if both of
5 the following conditions are met:

6 (i) Over two-thirds of the transmissions, measured in megabytes,
7 transmitted by the facility during the test period were transmitted to or on
8 behalf of one or more direct broadcast satellite television or data
9 transmission services that operate pursuant to 47 Code of Federal Regulations
10 parts 25 and 100.

11 (ii) Over two-thirds of the transmissions, measured in megabytes,
12 transmitted by or on behalf of those direct broadcast television or data
13 transmission services during the test period were transmitted by the facility
14 to or on behalf of those services.

15 For THE purposes of subdivision (b) of this paragraph, "test period" means
16 the three hundred sixty-five day period beginning on the later of the date on
17 which the tangible personal property is purchased or the date on which the
18 direct broadcast satellite television or data transmission service first
19 transmits information to its customers.

20 17. Clean rooms that are used for manufacturing, processing,
21 fabrication or research and development, as defined in paragraph 14 of this
22 subsection, of semiconductor products. For THE purposes of this paragraph,
23 "clean room" means all property that comprises or creates an environment
24 where humidity, temperature, particulate matter and contamination are
25 precisely controlled within specified parameters, without regard to whether
26 the property is actually contained within that environment or whether any of
27 the property is affixed to or incorporated into real property. Clean room:

28 (a) Includes the integrated systems, fixtures, piping, movable
29 partitions, lighting and all property that is necessary or adapted to reduce
30 contamination or to control airflow, temperature, humidity, chemical purity
31 or other environmental conditions or manufacturing tolerances, as well as the
32 production machinery and equipment operating in conjunction with the clean
33 room environment.

34 (b) Does not include the building or other permanent, nonremovable
35 component of the building that houses the clean room environment.

36 18. Machinery and equipment that are used directly in the feeding of
37 poultry, the environmental control of housing for poultry, the movement of
38 eggs within a production and packaging facility or the sorting or cooling of
39 eggs. This exemption does not apply to vehicles used for transporting eggs.

40 19. Machinery or equipment, including related structural components,
41 that is employed in connection with manufacturing, processing, fabricating,
42 job printing, refining, mining, natural gas pipelines, metallurgical
43 operations, telecommunications, producing or transmitting electricity or
44 research and development and that is used directly to meet or exceed rules or
45 regulations adopted by the federal energy regulatory commission, the United

1 States environmental protection agency, the United States nuclear regulatory
2 commission, the Arizona department of environmental quality or a political
3 subdivision of this state to prevent, monitor, control or reduce land, water
4 or air pollution.

5 20. Machinery and equipment that are used in the commercial production
6 of livestock, livestock products or agricultural, horticultural, viticultural
7 or floricultural crops or products in this state and that are used directly
8 and primarily to prevent, monitor, control or reduce air, water or land
9 pollution.

10 21. Machinery or equipment that enables a television station to
11 originate and broadcast or to receive and broadcast digital television
12 signals and that was purchased to facilitate compliance with the
13 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
14 Code section 336) and the federal communications commission order issued
15 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
16 not exempt any of the following:

17 (a) Repair or replacement parts purchased for the machinery or
18 equipment described in this paragraph.

19 (b) Machinery or equipment purchased to replace machinery or equipment
20 for which an exemption was previously claimed and taken under this paragraph.

21 (c) Any machinery or equipment purchased after the television station
22 has ceased analog broadcasting, or purchased after November 1, 2009,
23 whichever occurs first.

24 22. Qualifying equipment that is purchased from and after June 30, 2004
25 through June 30, 2014 by a qualified business for harvesting, transporting or
26 the initial processing of forest products, including biomass, as provided in
27 section 41-1516. To qualify for this exemption, the qualified business must
28 obtain and present its certification from the department of commerce at the
29 time of purchase.

30 C. The exemptions provided by subsection B of this section do not
31 include:

32 1. Expendable materials. For THE purposes of this paragraph,
33 expendable materials do not include any of the categories of tangible
34 personal property specified in subsection B of this section regardless of the
35 cost or useful life of that property.

36 2. Janitorial equipment and hand tools.

37 3. Office equipment, furniture and supplies.

38 4. Tangible personal property used in selling or distributing
39 activities, other than the telecommunications transmissions described in
40 subsection B, paragraph 16 of this section.

41 5. Motor vehicles required to be licensed by this state, except buses
42 or other urban mass transit vehicles specifically exempted pursuant to
43 subsection B, paragraph 11 of this section, without regard to the use of such
44 motor vehicles.

1 6. Shops, buildings, docks, depots and all other materials of whatever
2 kind or character not specifically included as exempt.

3 7. Motors and pumps used in drip irrigation systems.

4 D. The following shall be deducted in computing the purchase price of
5 electricity by a retail electric customer from a utility business:

6 1. Revenues received from sales of ancillary services, electric
7 distribution services, electric generation services, electric transmission
8 services and other services related to providing electricity to a retail
9 electric customer who is located outside this state for use outside this
10 state if the electricity is delivered to a point of sale outside this state.

11 2. Revenues received from providing electricity, including ancillary
12 services, electric distribution services, electric generation services,
13 electric transmission services and other services related to providing
14 electricity with respect to which the transaction privilege tax imposed under
15 section 42-5063 has been paid.

16 E. The tax levied by this article does not apply to:

17 1. The storage, use or consumption in Arizona of machinery, equipment,
18 materials or other tangible personal property if used directly and
19 predominantly to construct a qualified environmental technology
20 manufacturing, producing or processing facility, as described in section
21 41-1514.02. This paragraph applies for ten full consecutive calendar or
22 fiscal years after the start of initial construction.

23 2. The purchase of electricity by a qualified environmental technology
24 manufacturer, producer or processor as defined in section 41-1514.02 that is
25 used directly in environmental technology manufacturing, producing or
26 processing. This paragraph shall apply for fifteen full consecutive calendar
27 or fiscal years from the date the first paper manufacturing machine is placed
28 in service. In the case of an environmental technology manufacturer,
29 producer or processor who does not manufacture paper, the time period shall
30 begin with the date the first manufacturing, processing or production
31 equipment is placed in service.

32 F. The following shall be deducted in computing the purchase price of
33 electricity by a retail electric customer from a utility business:

34 1. Fees charged by a municipally owned utility to persons constructing
35 residential, commercial or industrial developments or connecting residential,
36 commercial or industrial developments to a municipal utility system or
37 systems if the fees are segregated and used only for capital expansion,
38 system enlargement or debt service of the utility system or systems.

39 2. Reimbursement or contribution compensation to any person or persons
40 owning a utility system for property and equipment installed to provide
41 utility access to, on or across the land of an actual utility consumer if the
42 property and equipment become the property of the utility. This deduction
43 shall not exceed the value of such property and equipment.

44 G. For the purposes of subsection B of this section:

45 1. "Aircraft" includes:

1 (a) An airplane flight simulator that is approved by the federal
2 aviation administration for use as a phase II or higher flight simulator
3 under appendix H, 14 Code of Federal Regulations part 121.

4 (b) Tangible personal property that is permanently affixed or attached
5 as a component part of an aircraft that is owned or operated by a
6 certificated or licensed carrier of persons or property.

7 2. "Other accessories and related equipment" includes aircraft
8 accessories and equipment such as ground service equipment that physically
9 contact aircraft at some point during the overall carrier operation.

10 H. For THE purposes of subsection D of this section, "ancillary
11 services", "electric distribution service", "electric generation service",
12 "electric transmission service" and "other services" have the same meanings
13 prescribed in section 42-5063.

14 Sec. 10. Repeal

15 Section 42-5160, Arizona Revised Statutes, as amended by Laws 2002,
16 chapter 326, section 20, is repealed.

17 Sec. 11. Section 42-6007, Arizona Revised Statutes, is amended to
18 read:

19 42-6007. Mobile telecommunications services; definitions

20 A. Any city or town that levies and collects a tax with respect to
21 mobile telecommunications services shall levy and collect the tax pursuant to
22 the requirements of the mobile telecommunications sourcing act (P.L. 106-252;
23 114 Stat. 626; 4 United States Code sections 116 through 126).

24 B. If a home service provider charges a customer an amount of tax for
25 mobile telecommunications services and the customer believes that the charge
26 is incorrect, the customer shall notify the home service provider in writing
27 of the contested charge. The written notification shall include the
28 customer's account name and number, the street address for the customer's
29 primary place of use, a description of the contested charge and other
30 information that the home service provider reasonably requires to process the
31 notification.

32 C. The home service provider has sixty days from the date of the
33 postmark on the notification prescribed in subsection A— B to review the
34 customer's account records and any electronic database or enhanced zip code
35 that is used pursuant to the mobile telecommunications sourcing act (P.L.
36 106-252; 114 Stat. 626; 4 United States Code sections 116 through
37 126). After the review, the home service provider shall determine the
38 correct amount to charge the customer and shall issue a refund or credit to
39 the customer if any incorrect charges were collected during the previous two
40 years.

41 D. The procedures in this section are the first course of remedy
42 available to any consumer CUSTOMER seeking correction of assignment of place
43 of primary use or taxing jurisdiction or a refund of or other compensation
44 for taxes assessed or other charges erroneously collected by the home service
45 provider under this section. No cause of action based on a dispute arising

1 from the collection of taxes by the home service provider under this section
2 shall accrue until that consumer CUSTOMER has reasonably exercised the rights
3 and procedures prescribed in this section.

4 E. For THE purposes of this section:

5 1. "Customer" means a person or entity that contracts with a home
6 service provider for mobile telecommunications services. Customer does not
7 include a reseller of mobile telecommunications services or a serving carrier
8 that is under an arrangement to serve the customer outside the home service
9 provider's licensed service area.

10 2. "Home service provider" means a facilities based carrier or
11 reseller that provides mobile telecommunications services to a customer.

12 3. "Mobile telecommunications services" means commercial mobile radio
13 service as defined in 47 Code of Federal Regulations section 20.3 in effect
14 on June 1, 1999.

15 4. "Place of primary use" means an address that is within the licensed
16 service area of the home service provider and that is the customer's
17 residential or primary business street address where the customer's use of
18 mobile telecommunications service primarily occurs.

19 Sec. 12. Section 42-11111, Arizona Revised Statutes, is amended to
20 read:

21 42-11111. Exemption for property of widows, widowers and
22 disabled persons

23 A. The property of widows, widowers and disabled persons who are
24 residents of this state is exempt from taxation to the extent allowed by
25 article IX, sections 2, 2.1, 2.2 and 2.3, Constitution of Arizona, and
26 subject to the conditions and limitations prescribed by this section.

27 B. Pursuant to article IX, section 2.3, Constitution of Arizona, the
28 exemptions from taxation under this section are allowed in the amount of:

29 1. Three thousand dollars if the person's total assessment does not
30 exceed twenty thousand dollars.

31 2. No exemption if the person's total assessment exceeds twenty
32 thousand dollars.

33 C. On or before December 31 of each year, the department shall
34 increase the total assessment limitation amounts under subsection B of this
35 section based on the average annual percentage increase, if any, in the GDP
36 price deflator ~~as defined in section 41-563~~ IN THE TWO MOST RECENT COMPLETE
37 STATE FISCAL YEARS. FOR THE PURPOSES OF THIS SUBSECTION, "GDP PRICE
38 DEFLATOR" MEANS THE AVERAGE OF THE FOUR IMPLICIT PRICE DEFLATORS FOR THE
39 GROSS DOMESTIC PRODUCT REPORTED BY THE UNITED STATES DEPARTMENT OF COMMERCE
40 OR ITS SUCCESSOR FOR THE FOUR QUARTERS OF THE STATE FISCAL YEAR.

41 D. For the purpose of determining the amount of the allowable
42 exemption pursuant to subsection B of this section, the person's total
43 assessment shall not include the value of any vehicle that is taxed under
44 title 28, chapter 16, article 3.

1 E. Pursuant to article IX, section 2.3, Constitution of Arizona, to
2 qualify for this exemption, the total income from all sources of the claimant
3 and the claimant's spouse and the income from all sources of all of the
4 claimant's children who resided with the claimant in the claimant's residence
5 in the year immediately preceding the year for which the claimant applies for
6 the exemption shall not exceed:

7 1. Thirteen thousand two hundred dollars if none of the claimant's
8 children under eighteen years of age resided with the claimant in the
9 claimant's residence.

10 2. Eighteen thousand eight hundred forty dollars if one or more of the
11 claimant's children residing with the claimant in the claimant's residence
12 was WERE either:

13 (a) Under eighteen years of age.

14 (b) Totally and permanently, physically or mentally disabled, as
15 certified by competent medical authority as provided by law.

16 F. For the purposes of subsection E of this section, "income from all
17 sources" means the sum of the following, but excluding the items listed in
18 subsection G of this section:

19 1. Adjusted gross income as defined by the department.

20 2. The amount of capital gains excluded from adjusted gross income.

21 3. Nontaxable strike benefits.

22 4. Nontaxable interest that is received from the federal government or
23 any of its instrumentalities.

24 5. Payments that are received from a retirement program and paid by:

25 (a) This state or any of its political subdivisions.

26 (b) The United States through any of its agencies, instrumentalities
27 or programs, except as provided in subsection G of this section.

28 6. The gross amount of any pension or annuity that is not otherwise
29 exempted.

30 G. Notwithstanding subsection F of this section, "income from all
31 sources" does not include monies received from:

32 1. Cash public assistance and relief.

33 2. Railroad retirement benefits.

34 3. Payments under the federal social security act (49 Stat. 620).

35 4. Payments under the unemployment insurance laws of this state.

36 5. Payments from veterans disability pensions.

37 6. Workers' compensation payments.

38 7. "Loss of time" insurance.

39 8. Gifts from nongovernmental sources, surplus foods or other relief
40 in kind supplied by a governmental agency.

41 H. The exemption described by this section applies independently to:

42 1. The assessed valuation determined for secondary property tax
43 purposes from the full cash value of the property and improvements owned by
44 the individual.

1 2. The assessed valuation determined for primary property tax purposes
2 from the limited property value of the property and improvements owned by the
3 individual.

4 I. Any dollar amount of exemption that is unused in a tax year against
5 the limited property value of property and improvements owned by the
6 individual may be applied for the tax year against the value of personal
7 property subject to special property taxes including the taxes collected
8 pursuant to title 5, chapter 3, article 3 and title 28, chapter 16,
9 article 3.

10 J. An individual is not entitled to property tax exemptions in the
11 aggregate that exceed the maximum allowed to a widow, widower or disabled
12 person even if the person is eligible for an exemption in more than one
13 category.

14 Sec. 13. Section 42-11129, Arizona Revised Statutes, is amended to
15 read:

16 42-11129. Exemption for property of fraternal societies

17 Property that is owned by a fraternal society or organization that is
18 recognized under section 501(c)(8) OF THE INTERNAL REVENUE CODE, if the net
19 earnings of the fraternal society or organization are devoted exclusively to
20 religious, charitable, scientific, literary, educational or fraternal
21 purposes, or section 501(c)(10) of the internal revenue code is exempt from
22 taxation if the property is used predominantly for educational, charitable or
23 religious purposes and for the purposes authorized under section 501(c)(8) or
24 501(c)(10) of the internal revenue code and no portion of the property is
25 used for the sale of food or beverage to the general public or the
26 consumption of alcoholic beverages by nonmembers of the fraternal society or
27 organization or is used or held for profit.

28 Sec. 14. Section 42-18127, Arizona Revised Statutes, is amended to
29 read:

30 42-18127. Expiration of lien and certificate; notice;
31 applicability

32 A. If the tax lien is not redeemed and the purchaser or the
33 purchaser's heirs or assigns fail to commence an action to foreclose the
34 right of redemption as provided by this chapter within ten years after the
35 last day of the month in which the lien was acquired pursuant to section
36 42-18114, the certificate of purchase or registered certificate expires and
37 the lien is void.

38 B. At least thirty but not more than sixty days before the expiration
39 date, the COUNTY treasurer shall notify the purchaser by certified mail of
40 the pending expiration. Within seven days after expiration, the treasurer
41 shall notify the purchaser by certified mail that the lien and certificate of
42 purchase or registered certificate have expired.

43 C. This section applies to liens purchased from and after the
44 ~~effective date of this section~~ AUGUST 22, 2002.

45 D. This section does not apply if, at the time of expiration:

1 1. The parcel for which the lien was purchased is subject to a
2 judicial proceeding or a thirty day notice pursuant to section 42-18202.

3 2. Other applicable law or court order prohibits the commencement of
4 an action to foreclose the right to redeem. The expiration date of the tax
5 lien shall be extended to twelve months following the termination of such
6 prohibition.

7 Sec. 15. Repeal

8 Section 43-205, Arizona Revised Statutes, is repealed.

9 Sec. 16. Section 43-1023, Arizona Revised Statutes, is amended to
10 read:

11 43-1023. Exemptions for blind persons, persons over sixty-five
12 years of age and dependents

13 A. A taxpayer is allowed an exemption of one thousand five hundred
14 dollars:

15 1. For a taxpayer who is blind or if either the taxpayer's central
16 visual acuity does not exceed 20/200 in the better eye with correcting lenses
17 or the taxpayer's visual acuity is greater than 20/200 but is accompanied by
18 a limitation in the fields of vision such that the widest diameter of the
19 visual field subtends an angle no greater than twenty degrees.

20 2. For the taxpayer's spouse if a separate return is made by the
21 taxpayer, if the spouse is blind, as defined in paragraph 1 of this
22 subsection, has no Arizona adjusted gross income for the calendar year in
23 which the taxable year of the taxpayer begins and is not the dependent of
24 another taxpayer. For the purposes of this paragraph, the determination of
25 whether the spouse is blind shall be made at the close of the taxable year of
26 the taxpayer. If the spouse dies during such taxable year, the determination
27 shall be made as of the time of the spouse's death.

28 B. A taxpayer is allowed an exemption of two thousand three hundred
29 dollars for:

30 1. Each dependent of the taxpayer, as defined in section 43-1001, and
31 subject to the qualifications prescribed by section 151(c) of the internal
32 revenue code.

33 2. Each person age sixty-five or older regardless of the person's
34 relationship to the taxpayer:

35 (a) If the taxpayer pays more than one-fourth of the total cost of
36 maintaining such person in a nursing care institution or residential care
37 institution licensed pursuant to title 36, chapter 4, or an assisted living
38 facility provider of a type certified pursuant to title 11, chapter 2,
39 article 7, if such payments exceed eight hundred dollars in the taxable year.

40 (b) If the taxpayer otherwise makes payments exceeding eight hundred
41 dollars in the taxable year for home health care or other types of medical
42 care.

43 3. For taxable years beginning from and after December 31, 2003, each
44 birth for which a certificate of birth resulting in stillbirth has been
45 issued pursuant to section ~~36-329.01~~ 36-330 if the child otherwise would have

1 been a member of the taxpayer's household. The taxpayer may claim the
2 exemption under this paragraph only in the taxable year in which the
3 stillbirth occurred.

4 C. For taxable years beginning from and after December 31, 1998, a
5 resident taxpayer is allowed an exemption of ten thousand dollars for each
6 parent or ancestor of a parent of the taxpayer, who is age sixty-five or
7 older, who requires assistance with activities of daily living and who lives
8 in the taxpayer's principal residence for the entire taxable year, if the
9 taxpayer pays more than one-half of the person's total support and
10 maintenance costs. An exemption under this subsection is in lieu of an
11 exemption under subsection B of this section for the same person.

12 D. A taxpayer shall not take more than one exemption for the same
13 person under either subsection B or C of this section.

14 E. A taxpayer is allowed an exemption of two thousand one hundred
15 dollars:

16 1. If the taxpayer has attained the age of sixty-five before the close
17 of the taxable year filing a separate or joint return and the taxpayer is not
18 claimed as a dependent by another taxpayer.

19 2. For the taxpayer's spouse if the spouse has attained the age of
20 sixty-five before the close of the taxable year, a joint return is filed and
21 the spouse is not a dependent of another taxpayer.

22 Sec. 17. Section 43-1042, Arizona Revised Statutes, is amended to
23 read:

24 43-1042. Itemized deductions

25 A. Except as provided by subsections B, D and E of this section, at
26 the election of the taxpayer, and in lieu of the standard deduction allowed
27 by section 43-1041, in computing taxable income the taxpayer may take the
28 amount of itemized deductions allowable for the taxable year pursuant to
29 subtitle A, chapter 1, subchapter B, parts VI and VII, but subject to the
30 limitations prescribed by sections 67, 68 and 274, of the internal revenue
31 code.

32 B. In lieu of the amount of the federal itemized deduction for
33 expenses paid for medical care allowed under section 213 of the internal
34 revenue code, the taxpayer may deduct:

35 ~~1. For the 1992 taxable year, the amount of such expenses that exceed~~
36 ~~six per cent of the taxpayer's federal adjusted gross income.~~

37 ~~2. For the 1993 taxable year, the amount of such expenses that exceed~~
38 ~~four per cent of the taxpayer's federal adjusted gross income.~~

39 ~~3. For the 1994 taxable year, the amount of such expenses that exceed~~
40 ~~two per cent of the taxpayer's federal adjusted gross income.~~

41 ~~4. For the 1995 taxable year and each taxable year thereafter, the~~
42 ~~full amount of such expenses.~~

43 C. Notwithstanding subsection B of this section, expenses for medical
44 care that are paid or reimbursed from the taxpayer's medical savings account
45 pursuant to section 43-1028 shall not be deducted pursuant to this section.

1 D. A qualified defense contractor that is identified and certified by
2 the department of commerce pursuant to section 41-1508 shall not claim both a
3 deduction as provided by this section and a credit under section 43-1078 with
4 respect to the same property taxes paid.

5 E. A taxpayer shall not claim both a deduction provided by this
6 section and a credit allowed by this title with respect to the same
7 charitable contributions.

8 F. The taxpayer may add any interest expense paid by the taxpayer for
9 the taxable year that is equal to the amount of federal credit for interest
10 on certain home mortgages allowed by ~~internal revenue code~~ section 25 OF THE
11 INTERNAL REVENUE CODE.

12 Sec. 18. Section 43-1181, Arizona Revised Statutes, is amended to
13 read:

14 43-1181. Credit of donation of school site

15 A. A credit is allowed against the taxes imposed by this title in the
16 amount of thirty per cent of the value of real property and improvements
17 donated by the taxpayer to a school district or a charter school for use as a
18 school or as a site for the construction of a school.

19 B. To qualify for the credit:

20 1. The real property and improvements must be located in this state.

21 2. The real property and improvements must be conveyed unencumbered
22 and in fee simple except that:

23 (a) The conveyance must include as a deed restriction and protective
24 covenant running with title to the land the requirement that as long as the
25 donee holds title to the property the property shall only be used as a school
26 or as a site for the construction of a school, subject to ~~the provisions of~~
27 subsection I or J of this section.

28 (b) In the case of a donation to a charter school, the donor shall
29 record a lien on the property as provided by subsection J, paragraph 3 of
30 this section.

31 3. The conveyance shall not violate ~~the provisions set forth in~~
32 section 15-341, subsection D and OR section 15-183, subsection ~~V~~ U.

33 C. For THE purposes of this section, the value of the donated property
34 is the property's fair market value as determined in a certified appraisal as
35 defined in section 32-3601 that is conducted by an independent party and that
36 is paid for by the donee.

37 D. If the property is donated by co-owners, including corporate
38 partners in a partnership, each donor may claim only the pro rata share of
39 the allowable credit under this section based on the ownership interest. The
40 total of the credits allowed all co-owner donors may not exceed the allowable
41 credit.

42 E. If the allowable tax credit exceeds the taxes otherwise due under
43 this title on the claimant's income, or if there are no taxes due under this
44 title, the taxpayer may carry the amount of the claim not used to offset the

1 taxes under this title forward for not more than five consecutive taxable
2 years' income tax liability.

3 F. The credit under this section is in lieu of any deduction pursuant
4 to section 170 of the internal revenue code taken for state tax purposes.

5 G. On written request by the donee, the donor shall disclose in
6 writing to the donee the amount of the credit allowed pursuant to this
7 section with respect to the property received by the donee.

8 H. A school district or charter school may refuse the donation of any
9 property for purposes of this section.

10 I. If the donee is a school district:

11 1. The district shall notify the school facilities board established
12 by section 15-2001 and furnish the board with any information the board
13 requests regarding the donation. A school district shall not accept a
14 donation pursuant to this section unless the school facilities board has
15 reviewed the proposed donation and has issued a written determination that
16 the real property and improvements are suitable as a school site or as a
17 school. The school facilities board shall issue a determination that the
18 real property and improvements are not suitable as a school site or as a
19 school if the expenses that would be necessary to make the property suitable
20 as a school site or as a school exceed the value of the proposed donation.

21 2. The district may sell any donated property pursuant to section
22 15-342, but the proceeds from the sale shall only be used for capital
23 projects. The school facilities board shall withhold an amount that
24 corresponds to the amount of the proceeds from any monies that would
25 otherwise be due the school district from the school facilities board
26 pursuant to section 15-2041.

27 J. If the donee is a charter school:

28 1. The charter school shall:

29 (a) Immediately notify the sponsor of the charter school by certified
30 mail and shall furnish the sponsor with any information requested by the
31 sponsor regarding the donation during the ten year period after the
32 conveyance is recorded.

33 (b) Notify the sponsor by certified mail, and the sponsor shall notify
34 the state treasurer, in the event of the charter school's financial failure
35 or if the charter school:

36 (i) Fails to establish a charter school on the property within
37 forty-eight months after the conveyance is recorded.

38 (ii) Fails to provide instruction to pupils on the property within
39 forty-eight months after the conveyance is recorded.

40 (iii) Establishes a charter school on the property but subsequently
41 ceases to operate the charter school on the property for twenty-four
42 consecutive months or fails to provide instruction to pupils on the property
43 for twenty-four consecutive months.

44 2. The charter school, or a successor in interest, shall pay to the
45 state treasurer the amount of the credit allowed under this section, or if

1 that amount is unknown, the amount of the allowable credit under this
2 section, if any of the circumstances listed in paragraph 1, subdivision (b)
3 of this ~~section~~ SUBSECTION occur. If the amount is not paid within one year
4 after the treasurer receives notice under paragraph 1, subdivision (b) of
5 this subsection, a penalty and interest shall be added, determined pursuant
6 to title 42, chapter 1, article 3.

7 3. A tax credit under this section constitutes a lien on the property,
8 which the donor must record along with the title to the property to qualify
9 for the credit. The amount of the lien is the amount of the allowable credit
10 under this section, adjusted according to the average change in the GDP price
11 deflator, as defined in section 41-563, for each calendar year since the
12 donation, but not exceeding twelve and one-half per cent more than the
13 allowable credit. The lien is subordinate to any liens securing the
14 financing of the school construction. The lien is extinguished on the
15 earliest of the following:

16 (a) Ten years after the lien is recorded. After that date, the
17 charter school, or a successor in interest, may request the state treasurer
18 to release the lien.

19 (b) On payment to the state treasurer by the donee charter school, or
20 by a successor in interest, of the amount of the allowable credit under this
21 section, either voluntarily or as required by paragraph 2 of this subsection.
22 After the required amount is paid, the charter school or successor in
23 interest may request the state treasurer to release the lien.

24 (c) On conveyance of fee simple title to the property to a school
25 district.

26 (d) On enforcement and satisfaction of the lien pursuant to paragraph
27 4 of this subsection.

28 4. The state treasurer shall enforce the lien by foreclosure within
29 one year after receiving notice of any of the circumstances described in
30 paragraph 1, subdivision (b) of this subsection.

31 5. Subject to paragraphs 3 and 4 of this subsection, the charter
32 school may sell any donated property.

33 Sec. 19. Laws 2004, chapter 289, section 7 is amended to read:

34 Sec. 7. Retroactivity

35 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, sections
36 41-1525, 43-1074 and 43-1161, Arizona Revised Statutes, as amended by this
37 act LAWS 2004, CHAPTER 289, apply retroactively to taxable years beginning
38 from and after December 31, 2003.

39 B. SECTION 41-1525, SUBSECTION B, PARAGRAPH 3, SUBDIVISION (e),
40 SECTION 43-1074, SUBSECTION D AND SECTION 43-1161, SUBSECTION D, ARIZONA
41 REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 289, APPLY RETROACTIVELY
42 TO TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2001.

1 Sec. 20. Retroactivity

2 A. Section 42-11111, Arizona Revised Statutes, as amended by this act,
3 applies retroactively to August 25, 2004.

4 B. Laws 2004, chapter 289, section 7, as amended by this act, applies
5 retroactively to taxable years beginning from and after December 31, 2001.

APPROVED BY THE GOVERNOR APRIL 1, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 1, 2005.

Passed the House February 21, 2005

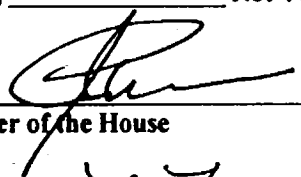
Passed the Senate March 24, 2005

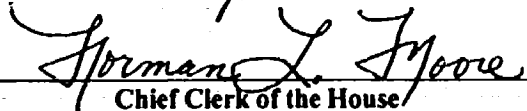
by the following vote: 59 Ayes,

by the following vote: 30 Ayes,

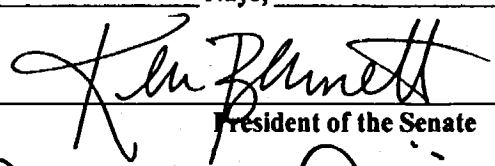
0 Nays, 1 Not Voting

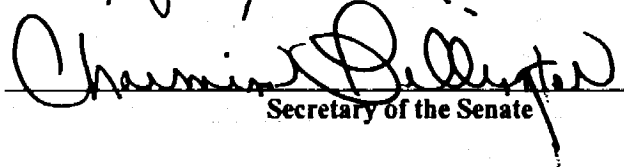
0 Nays, 0 Not Voting



Speaker of the House


Chief Clerk of the House



President of the Senate


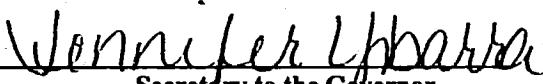
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28th day of March, 2005

at 2:14 o'clock P M.




Secretary to the Governor

Approved this 1 day of

April, 2005,

at 11⁰⁰ o'clock A. M.



Governor of Arizona

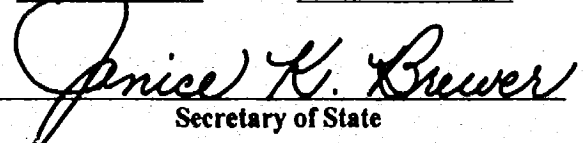
H.B. 2155

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of April, 2005

at 2:23 o'clock P. M.



Secretary of State